G. BAILEY, EDITOR AND PROPRIETOR; JOHN G. WHITTIER, CORRESPONDING EDITOR.

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THE NATIONAL ERA.

WASHINGTON, JULY 22, 1850.

OVETCHES OF OUR VILLAGE.

No. 1. THE STRIFE. BY MARTHA RUSSELL. To follow the custom of certain wise and learn ed historians, reader, we ought to begin at the beginning, (we had well nigh put that in French,

the number of its inhabitants, &c.; but we dislike details, and, besides, are not very wise ourselves, having never been quite able to comprehend why the sun, which always rises in the east as seen from our home, should, from the other side of Totoket, seem to rise in a directly oppo-

broken, the roads so full of crooks and turns that. you will not care to seek us out. Passing by, therefore, these particulars, we will proceed to speak of the wars, foreign and civil, that have at various times caused dire commotion within our precincts-for, in this respect, our experience somewhat resembles that of Hector Homespun, the renowned tailor, in Cooper's tale of the " Red

We begin with the Pequod war, when those redoubted Captains, Mason of Connecticut and Stoughton of Massachusetts, pursued the royal Sassacus and his routed tribe along our borders, halting at the adjoining settlement of Menunkatuck, to behead two captive sachems, who nobly refused to betray their chief. The name of the spot still bears witness to the deed. It is now the site of a fashionable watering-place, but we never pace the broad piazzas of the "Sachem Head House" without recalling this scene, and it requires little aid from fancy to picture forth the spot as it was at that time-the rocky point, covered with the primeval growth of the forest; the white-crested waves of the Sound, sweeping toward the beach like a train of white-cowled friars, chanting in low, monotonous murmurs solemn masses for the souls of the waiting victime; the handful of soldiers, resting on their arms-worn, weary, emaciated by their harassing narch through the wilderness-gazing with ster sh captains-grim, gaunt, and undismayed-the

We shall not stay to describe the dour rement, while the King's commissioners sat sipping their "flip" with good old Governor Leete

Ah, reader, could you just sit down by our sintoo young for the camp, preparatory to seeking the thick forests of Totoket. Then, if you are nuisance, you should sip your evening beverage from one of those tiny China cups which date far back in the Colony times, and if it chance to be of home. Some rods to the east, where the smooth summer, and rattling down its burden of nuts

elves the office of veritable historian ; therefore eaving this household shade, we shall note but the village a la Montague et Capulet, somewhere about the year 1732, as to the proper method of pitching the tunes in meeting," it being sufficient o say that, in the great society meeting called spon that occasion, it was then and there voted, y a large majority, to the great dismay of cerhe established Congregational order, and took

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almost encircles what still continues to be called the new graveyard, though here and there a sunken grave, with its rudely sculptured slab of red free stone, proves that many years have elapsed since the first lone dweller was laid there. A few feet to the west of the old graveyard, stood, at the time of which we speak, the old meeting-house, constructed after the most rigid Puritanic notions of architecture, without steeple or bell, and with a multitude of small square windows, which gave anything else. Beyond this, the open common stretches westward several rods, and here the district decided to erect their new house. Nothing like the little, low, brown house in which they had tasted the benefit of birch and Daboll, would content them now; nothing short of a two-story, two-chimneyed building, with a room on the ground floor for the common school, and the one above for an academy, to the want of which they had become suddenly conscious.

beginning, (we had well nigh put that in French, but, after all, old English is the best,) and speak of the geographical position of our village, usfine its boundaries and area, describe its geological formations, its rivers, lakes, and mountains, (for it has, at least, what we dignify by these names.)

Lives cortainly a grand affair, superier to anything in the adjacent villages; and who shall below them if they did feel certain pleasant titillations in the region of approbativeness, as they gazed upon the belfry, surmounted by its glittering vane—that belfry from which, alas! no bell was ever destined to sound. was ever destined to sound.

As it was impossible to complete the building before the period arrived for the commencement of the winter school, it was decided to finish the lewer room, and leave the rest until the spring end why the sun, which always rises in the east seen from our home, should, from the other ide of Totoket, seem to rise in a directly opporte direction.

Moreover, the country round about us is so roken, the roads so foll of crooks and turns, that aless you have a Macgregor's aversion to plains, ou will not care to seek us out. Passing by, the out, it ... we them tarong their lessons and recitations, and thus he had driven through seveand oat, let all the had driven through several winters, until he received his wages—by far the most important part of the contract with him, for what could he have earned on the farm during the short days of winter? His impartiality was manifested by punishing, on every possible occasion, the children of those who were officially connected with the school, thereby, as he thought, showing his independence. It was not long before his severity began to give rise to complaints, which were duly resented by the party in favor of rigid discipline; and thus began the great storm which swept over the village, like the sirocco, blinding the eyes and stifling the consciences, causing many families that had hitherto sailed the sea of life together to part company, and send after each other bitter words and scowls of defiance, instead of good wishes and friendly cheer. Ithiel Chittenden, or, to give his military title

Ithiel Chittenden, or, to give his military title and name as commonly abbreviated by his neigh-bors, Leftenant Chinnin had been one of the most bors, Leftenant Chinnin had been one of the most active in engaging the teacher; but as long as the punishment fell only on his eldest child, Molly, a beautiful, high-spirited girl of thirteen, what-ever he might have thought, he held his peace, only replying to her indignant complaints and hearty wishes that the teacher might slip from the old crossing-pole into the river, and get half drowned, or slip down on the ice—anything to oblige him to leave the school, with a "Tut, tut, Molly, I dare say you are as noisy and mischie-vous as a flock of kingbirds."

But when Mr. Evarts laid his heavy hand upon

earnestly with him on the wisdom of his undue severity. The teacher indignantly and somewhat insultingly resented what he termed his interference, and a signated his pendence by punishing still more severely every little fault of his children.

Notwithstanding his warlike title, the Leftenant was a peaceably disposed man; it took a good deal to rouse and excite his combativeness; but this object once fairly attained, he manifested something like the obstinate tenacity of the bull-dog. The girgumstance of the interview be-

something like the obstinate tenacity of the bulldog. The circumstance of the interview between him and the teacher became known, and
their words duly reported and distorted to suit
the views of the contending parties. He explained, corrected, and remonstrated, until, out
of all patience, he vowed (the Leftenant never
swore) by the great John Rogers, that the teacher
should quit the village, or his chidren the school.

The party in favor of rigid discipline held up
their hands in holy horror at this manifestation
of weakness. They shook their heads ominously
when they spoke of little Joe and Benje, and
talked dolorously of the many instances in which
children, born to their parents late in life, had
been ruined themselves and brought ruin on their
families, all for the want of a little wholesome
discipline. One or two even went so far as to

the militia, thereby endangering the character of that national bulwark.

The aggrieved party, on the other hand, looked upon him as little less a martyr than the worthy lecturer on Divinity, whose name he had booked, and they began to look upon the little twin-boys with something like the same interest with which they had been taught to view the nine small children of that worthy man, as represented in a wood-cut that invariably graced the pages of the New England Primer.

wood-cut that invariably graced the pages of the New England Primer.

Those who are unacquainted with that phase of social life manifested in country villages, can have no conception of the bitterness and length to which petty quarrels can be carried. Not that the people are worse, but their facilities are better. There are few topics of foreign interest among them, few incidents occur to break the ordinary routine of life, and they are consequently much occupied with local affairs. Besides, there is a certain class, which is never lacking in any society, the members of which are far better versed in the origin, faults, foibles, weaknesses, errors, and faux pas, of every individual, than they are with their own; and these, set on by one or two adroit wire-pullers, would breed a quarrel

Moreover, the matter is still worse where the families are all connected by marriage or blood, as is the case with us, and where they still retain, to a degree perhaps beyond any other place in New England, the old English aristocracy of family, the first question with many of our older people being, to this day, whenever a stranger is spoken of: "What is his family—what is his bread?"

This perhaps is owing to the circumstance.

should reflect honor on themselves and the whole town.

We must depart from our original intention so far as to say, that the site of our village is a small, basin-shaped valley, scooped out from amid the hills, through the middle of which a small but beautiful stream goes loitering like a truant child. This stream (we call it river) separates the village common from the ancient graveyard, where sleep the first settlers, and, crossing the main road, almost encircles what still continues to be called the new graveyard, though here and there a sunken grave, with its rudely sculptured slab of red free stone, proves that many years have elapsed since should reflect honor on themselves and the whole | ilarity of their condition with that of ancient

If this unhappy quarrel embittered the tempers and hearts of friends and neighbors, its evil effects fell not less heavily upon their children. Some of them took so completely the tone of their parents, that they would not speak to their former playmates; and others, who neither knew nor cared another about the coursel.

trangement more keenly than little Molly Chinnia and Mark, the son of her father's neighbor, and, until this miserable contention, most intimate friend, Eusign Ross. An unbroken friendship had subsisted between their families from the first settlement. Their homes were separated only by a green meadow and bit of pasture, and from infancy they had shared their plays and lessons together. Together they had learned to skate and swim, together they had conquered vulgar fractions, and received due punishment on that same day, for singeing the teacher's long queue in commemoration of that event; together they had received their commissions in the militia; and, let me tell you, reader, that a commission in that body, which at the present day resembles Falstaff's ragged regiment, was at that time considstaff's ragged regiment, was at that time considered an honor not unmeet for the highest dignitaries in the land. Together they had wooed, wed, and settled down on the old homesteads, rejoiced over the birth of their children, watched joiced over the birth of their children, watched their growing fondness for each other, and, as Mark grew up tall and straight as a young pine, and Molly like a graceful, beautiful green willow, there was nothing said; but as they watched them coming home from school, full of mirth and mischief, or seated over the brawling river, as the old elementated pole care has the lesson from the same worully dog's eared book, or disputing about the exact number of words on a purious page, the thoughts of both sometimes reverted to a beautiful knoll, midway between their dwellings, which had often been pointed out as a dwellings, which had often been pointed out as a fine building site, with a kind of wonder as to whether it would ever be used for that purpose.

Ensign Ross had no child save Mark; and having seen the fate of several only children before his eyes, he early determined that his boy should not be spoiled by being "babied." Therefore, he never took his part in any of his childish squab-bles, and Mark early learned that if he got into trouble there was no use in complaining at home, for his mother was a woman of too much sense to

for his mother was a woman of too much sense to pet and pity him in secret.

Though he heartily detested Mr. Evarts, and it the feeling, to judge from the blows and thumps bestowed upon him, was duly returned, yet his father knew nothing of the matter; or, if his wife sometimes mentioned that Mark had been punished, he usually replied with—"Aye, aye, and he deserved it richly, I dare say!"

Of course, he was little inclined to sympathize with the peculiar indulgence which his old friend manifested toward his late-born twins.

"Considerin' that Molly is an only daughter, and was for a long time an only ohild," was his frequent remark to his wife, "I allow that they did pretty well by her. But it puts me out of all manner of patience, to see such a man as Ithiel Chionin led by the nose by two such imps. Why, it makes no difference who he is talking to, if it was Thomas Jefferson, and one of those precious boys was to break in with a string of questions as long as the moral law, he would stop and answer them all. He not only makes a goose of himself, but spoils the boys, and I must tell him

Ensign Ross was by no means hard or unfeel-ing. He was naturally genial and jovial, but he had contrived to get certain fixed ideas into his head, especially upon the management of chil-dren, beyond which he never troubled himself to ook. "Spare the rod, and spoil the child," was Scripture with him, and he wanted nothing better simply good nature in his slower and more patient neighbor. When the teacher punished the little boys so severely, without inquiring into their offence or listening to their father's explanation, he stoutly defended the former, and read the Leftenant such a lecture on his folly and weakness in all that concerned his boys, that the latter was deeply grieved and astonished. Indeed, upon reflection, he felt, himself, that he had said many things that were unwarranted, even by their long friendship; but he did not like to confess it, and contented himself with reasoning after this manner—"If he is a mind to be mad at a hasty but contented himself with reasoning after this man-ner—"if he is a mind to be mad at a hasty but well-meant word, why, let him."

Chinnin, on his part, thought more delibe-rately—"If Jonathan Ross thinks I have turned into a natural fool, why, let him seek those that

Thus arose a frosty atmosphere between them, chilling alike the ripened fruit of the past, and the opening hopes of the future. Had they been left to themselves, doubtless the memory of the past and a sense of their present folly would have brought back the summer to their hearts, but a rumor of their feelings got abroad, as such things always do in a country village, and the powers of scandal and schism took the matter up, going from one to the other, watching every word and look, distorting, exaggerating, and misrepresenting, until, after a few weeks, they could no longer discern, in the pictures held up to them by these meddlers, any trace of the old, friendly features. Still there were some grains of truth

by these meddlers, any trace of the old, friendly features. Still there were some grains of truth in all these reports; for they were by no means happy, and their state of heart and mind was one which is prone to think and say bitter things.

From the day that Leftenant Chinnin withdrew his children from school, they ceased to speak together, for the epithets "Dotard" and "Busybody," which had been angrily applied to each other on that occasion, seemed to stick in their throats, and prevent anything like a friendly atterance.

snow lay white and unbroken on the fields be-tween the two dwellings; no path, trodden hard and smooth as ice, marked the constant inter-course of the families; no small foot-prints, devia-ting from the path at every few yards, gave evi-

neighbors. But submission to his will on her part, and a sense of shame and wrong done and received on his, kept them both silent. But when the news came that Molly, too, was stricken down,

Mark's course was taken.
"If father has a mind to be a heathen, and worse

"If father has a mind to be a heathen, and worse than a heathen," he muttered, one morning as he watched the Ensign on his way to the woods, "why, well and good; but mother is a Christian, I take it. She ought to know better. I will give her her choice; either she or I go over to-day and see how Molly and the boys are."

He watched his mother with a compressed lip as she went about her household labor, then, when she had smoothed her hair and drawn her wheel to her accuratomed corner, he began

"Mother, Lydia and Tim Linsley, Thankful Harrison, Sam and David Butler, Abby Barker, and ever so many more children, have died. Do you think that I se and Benja and Mollagetth 222

"I don't know, Mark. Sarah Whedon says that Doctor Foot gives no hope for the hous Caya.
Poor Hannah Chinnin, it will be a sad blow to her to lose them."
"Mother, do you remember what nice custards

"Mother, do you remember what nice custards and jellies Mrs. Chinnia used to bring me, when I had the measles; and how she watched by me and nursed me when you was too much worn out to hold up your head?"

"Yes, Mark, I shall never forget her kindness," and the tears sprang to the mother's eyes.

"Well, then, mother," he explained, rising and giving the forestick a kick, as if to settle his decision, "I think it is a burning shamethat we should let them all die and never go near them. I for

tet them all die, and never go near them. I, for one, am going over there to-day. I am but a boy, I know, and can do nothing to help them, but the children will know that I have not forgotten them. As to the fever, if I catch it, I must. One had as good die with the fever as live in a quarrel all his days."

Mark had not miscalculated the effect of his words upon his mother. She knew something of his determined spirit, and exclaimed, hurriedly. "No, no, Mark! For you to go there would be tempting Providence outright. If you should catch the fever, I should never forgive myself; I will go. I will." she continued speins him herein to did to the jacket. "I have wanted to go for a long time. for these quarrels, as you say, are dreadful. Only

yourself, and I will go this minute."

"I promise for to-day," replied Mark.

There was no manifestation of surprise when Esther Ross entered that house of affliction, nothing that marked a memory of the bitter estrangement between them; but a warm pressure of the hand and a grateful look from the over-wearied mother, as unable to bear any longer the last fearful struggle between life and death, she relinquished struggle between life and death, she relinquished her child into the hands of her old friend, and buried her face on her husband's shoulder. As in birth, so in death, those children were not divided. Death gathered them both in the space of a few hours, and kind Esther Ross (ah, how she inwardly blessed the willfulness of her boy, that had driven her forth) smoothed their fair locks with a gentle hand, and prepared their little forms for the grave. Then she sought the room of Molly, where her presence and thoughtful care was like dew to the heart of the fear-stricken girl.

When she returned home that night, and related with a mother's eloquence the sore affliction of

with a mother's eloquence the sore affliction of their neighbors, Mark wept outright, and the eyes of the Eusign glistened, as he said, "I am glad you went, Esther;" then laying his hand upon Mark's head, he added, "Remember, my boy, that little Joe and Benje are free from anger and gin and arrows acre?" sin and sorrow now.

Esther Ross knew that her husband passed an anxious and restless night, but she knew, also, that he was one of those who are best left to the workings of their own convictions; therefore, she did not ask him, in so many words, to attend the funeral, and bury all anger in that double grave.

saw the old pastor issue forth from the house, fol-lowed by four boys not much larger than himself, bearing the double coffin—for he could not bear to think that the fair-haired boys lay beneath that heavy black pall.

But his father continued to watch the process

But his father continued to watch the procession with a troubled expression of face. Onward it crept, with that slow and solemn pace, and there came a convulsive twitching about his mouth, as if filed into the graveyard, and past a little, short mound, headed by a slab of white marble, a few yards to the right of the gate—for he thought of the sad November day when he and his wife had stood by that open grave, and well did he remember whose hand had gently lowered the head of his little flaxen-haired Mabel to her last home, and who, in all times of trial and affliction, had stood by his side like a brother. He seized his hat, and, hurrying onward, soon reached the spot, and gently made his way through the crowd to the side of the grave.

When the solemn prayer of the old minister was ended, with a gesture of entreaty he took a shovel from the hand of a young man, and slowly and reverently sprinkled the first grains of dust on the coffin below. As he returned the shovel to the hand of the young man, his eye for one second met that of the bereaved father, and he felt that his motive was understood. His hand laid the last clod upon that grave—his foot was the last to turn away and join Esther, who still lingered by the white tombstone of their own child.

They pursued their way home in silence, and,

They pursued their way home in silence, and, when they reached that house of sorrow, as if by one impulse, they both turned and entered. As they entered the vacant sitting-room, they heard the voice of the Leftenant raised in broken expostulations in an adjoining room.

"No, no, my boy; this must not be. We have suffered sorely; and if you too should take the fever and die"—

The Leftenant could not proceed; and, as they have the course the sear they are the course they are the course they are they are

her fevered hand closely in his, as he replied, with a quivering lip—

"They have buried up little Joe and Benje, and would not let me see them, but I mill see Molly; I have seen her to-day, and I will see her to-morrow! I don't care for the fever. My father looks stern, and my mother sad, and nothing is as it used to be. This quarrel has made us all miserable enough!"

"I thiel, I thiel, the boy speaks the truth!" exclaimed Ensign Ross, stepping through the doorway, and offering his hand to his startled neighbor. "I have been harsh, unkind, unchristian—

tonishment, then seizing the proffered hand, mur-mured, as he bent over to conseal his tears—

"And I, too, Jonathan—I, too, am guilty; but I have left it all there," he added, with a signifi-cant gesture towards the graveyard. "Let it be

And so it was. After a long and weary illness, Molly recovered, and the lives of the families again floated on in the same current, until, as old, white-haired men, Leftenant Chinnin and Ensign Ross were laid with their fathers. But years before they died, the white house on the hill, which they had seen in their day dreams, became a reality, and two little boys had been born, who, by the express wish of the Ensign, were christened Joseph and Benjamin.

The storm of contention gradually subsided, and the old landmarks became visible. The land has now had rest for many years, and the traces of the old battle are scarcely discernible to any, save such curious beings as ourselves. The

traces of the old battle are scarcely discernible to any, save such curious beings as ourselves. The white school-house, minus the belfry, still stands, but the "Revenge," where we conned our earliest lessons, of which we intend to speak hereafter, has long since gone to destruction.

Note.—The ancients of our village invariably say Leftenast for Lieutenant, a habit common in their day, and Ensign is also pronounced as if written Issign—both with a strong emphasis on the first syllable.

HORACE MANN'S LETTERS

On the Extension of Slavery into California and Nen Mexico; and on the duty of Congress to provide the Trial by Jury for alleged Fugitive Slaves.

(Republished with Notes)

LETTER II. To the Editors of the Boston Ailas ;

GENTLEMEN; Your semi-weekly of the 1st inst contains a letter of the Hon. Daniel Webster, in which he has been pleased to refer to me. I wish to reply. To prevent all chance of mistake, I quote the following passages:

"But, at the same time, nothing is more false than that such jury trial is demanded in cases of this kind by the Constitution, either in its letter or in its spirit. The Cousti tution declares that in all criminal prosecutions there shall be a trial by jury. The claiming of a fugitive slave is not a criminal prosecution.

law the trial by jury shall be preserved; the reclaiming of a fugitive slave is not a suit at the compose have, and there is clear to sentence in the Constitution having the least bearing on the subject.

"I have seen a publication by Mr. Horace Mann, a member of Congress from Massachusetts, in which I find this sentence. Speaking of the bill before the House, he says: This bill derides the trial by jury secured by the Constitution. A man may not lose his horse without a right to this trial, but he may lose his freedom. Mr. Webster speaks for the South and for slavery, not for the North and for freedom, when he shandom this right. This personal vituperation does not annoy me, but I lament to see a public man of Massachusetts so orude and confused in his legal apprehensions, and so little acquainted with the Constitution of his country, as these opinions evince Mr. Mann to be. His citation of a supposed case, as in public if it have any analogy to the matter, would prove that, if Mr. Mann's horse stray into his neighbor's field, he cannot lead him back without a previous trial by jury to ascertain the right. Truly, if what Mr. Mann any of the provisions of the Constitution in this pub leation best test of his accuracy it, the understanding of that instrument, he would do well not to seek to protect his peculiar notions under its sanction, but to appeal at case, as others do, to that higher authority which sits enthroned above the Constitution and above the law."

I must deny this charge of "personal vitupera-tion," and I regret that Mr. Webster, while disclaiming "annoyance" at what I said, should be-tray it. I believe every part of my "Letter" to be within the bounds of courteous and respectful discussion. There is nothing in it which might discussion. There is nothing in it which might not pass between gentlemen, without interputing relations of civility and friendship.

Though rout or regret at me novel position, and or dissent from his unwonted doctrines, yet it abounds in proofs of deference to himself. I must now, however, be permitted to add that the highest eminence becomes unenviable, when it breeds intolerance of dissent, or bars out the humblest man from a free expression of opinion.

man from a free expression of opinion.

Mr. Webster "laments to see a public man of Massachusetts so crude and confused in his legal apprehensions, and so little acquainted with the apprehensions, and so little acquainted with the Constitution of his country, as these opinions evince Mr. Mann to be." Yet he points out no error of opinion. He specifies nothing as unsound. He presents no information, indictment, bill of particulars, or even the "common counts." Judgment and condemnation alone appear. He seems to have taken it for granted that he had only to say I was guilty, and then proceed to punish. I protest against and impugn this method of proceeding, by any man, however high, against any man, however humble.

When Mr. Webster nanned his "lamentations"

When Mr. Webster penned his "lamentations" over my crudeness, confusion, and ignorance, he doubtless meant to deal me a mortal blow. The blow was certainly heavy; but the question still remains, whether it hit. Polyphemus struck hard blows, but his blindness left the objects of his pas-

sions unharmed.

But wherein do those erroneous "opinions" specify but assumes to condemn? Fortunately, in writing the sentence which he quotes for animadversion, I followed the precise meaning of Judge Story, as laid down in his Commentaries; and in regard to the only point which is open to a question, I took the exact words of that great jurist. He speaks of "the right of a trial by jury, seventh article of amendment to the Constitution, which preserves this right "in suits at common
law," had been adopted.—3 Comm, 628. Instead
of transcribing Judge Story's words, "in civil
cases," which present no distinct image to common
minds, I supposed the every-day case of litigation
respecting a horse, which is a "civil case;" and
this difference of form is the only difference beleast what means and the of the learnest releabution, after recoging from this ill tempered at-

stales; but must have recourse to an action at lance"—3 Com., 4-5.

But the opinion expressed by me on this point does not need the authority of any name to support it; and the illustration which I gave is not only intelligible to every sensible man, but is also apposite. I said "a man may not lose his horse [his property in a horse] without a right to this trial." Mr. Webster's comment is, that this case, "if it have any analogy to the matter," means, that if a man's horse "stray into his neighbor's field, he cannot lead him back without a previous trial he increase accertain the right." Was ever the bor's held, he cannot lead him ouck wands a precessival by jury to ascertain the right." Was ever the plain meaning of a sentence more exactly changed about, end for end? Mr. Webster may pitch summersets with his own doctrines, but he has no right to pitch them with mine. I said a man may

said, a man cannot fad or retake a lost horse, without a previous trial! Dulce est destpere in loco.

Or, it is pleasant to see a grave Senator play upon words; though there must be some wit to redeem it From puerility.

But the childishness of this criticism is not its worst feature. What is the great truth which

test title to an alleged slave, whose market value is more than this sum, each is entitled to a jury to try the fact of ownership. But if the alleged slave declares here, in Massachusetts, that he owns himself, he is debarred from this right. And this truth, or a common illustration of it, Mr. Webster and his apologists think a suitable topic for sneers or pleasantry! A foreign proverb says, that for a man to kill his mother is not in good taste. I trust the moral and religious people of Massachusetts have too much good taste to relish jokes on such a theme.

EASY.
I said that Mr. Butler's bill "derides" the trial I said that Mr. Butler's bill "derides" the trial by jury. By that bill every commissioner and clerk of a United States court, every marshal and collector of the custome, and the seventeen thousand postmasters of the United States, are severally invested with jurisdiction and authority in all parts of the United States, to deliver any man, woman, or child in the United States, into custody, as a slave, on the strength of an expante affidavit, made anywhere in the United States.

Another remarkable feature of Mr. Butler's Virginia bill of rights .- Ib , 524. He said this in

the Constitution, as this bill to humanity? I courts, the jurors as well as the judges? They deprecate error of all sorts; but hold it to be certainly do, whether they mention the jurors exmore venial to err in judgment than in heart.
I said that in promising to support Mr. Butstrued the word court in the same way."—2 Elliler's bill, "with all its provisions to the fullest ott's Debates, 127.

extent," Mr. Webster "abandoned" the right to Such was the dectrine maintained by the lead-

freeman seized as a stave. Mr. Seward's bill, Mr. Madison, in Virginia; by Judge Iredell, in providing for the trial by jury, in such cases, was providing for the trial by jury, in such cases, was before him. He took no notice of it. He passed by "on the other side," while he bestowed his best encomium on Mr. Butler's bill, by promising to support it. Was not this an "abandonment," pressly senging under all the synonymes given in the dictionary?

HIGHER POWERS, AND LOWER.

Mr. Webster advises me, in a certain contingency, "to appeal to that higher authority which sits inthroned above the Constitution and above the law." I take no exception to this counsel, because of its officiousness, but would thank him for it. My ideas of duly require me to seek ansiously for the true interpretation of the Constitution, and then to abide by it, unswayed by hopes or fears. If the Constitution requires me to do anything which my sense of duty forbids, I shall save my conscience by resigning my office. I am free, however, to say, that if, in the discharge of my political duties, I should transfer my allegiance to any other power, I should adopt Mr. Webster's advice, and go to the power "which sits enthroned above," rather than to descend to that opposite realm, whence the bill he so cordially HIGHER POWERS, AND LOWER.

enthroned above," rather than to descend to that opposite realm, whence the bill he so cordially promised to support, must have emerged.

I wish, however, to remark, that though I acknowledge the Constitution to be my guide while word out a support it, yet a or at the fifth and fing either at the powers above us, or at those who reverence them. I hold it be not only proper, but proof of wound moral and religious feeting, to look to the perfect law of God for light to enable us more justly to interpret the inverse. enable us more justly to interpret the imperfect laws of man. Especially, when we are proposing to make or amend a law, ought we to take our gauge of purpose and of action from the highest standard.

Noy, that Solomon of the law, thought it not

improper to say: "The inferior law must give place to the superior; man's laws to God's laws."—Maxims, pp. 6—7.

laws."—Maxims, pp. 0—7.

"The law of Nature," says Hiackstons, "being coeval with mankind, and dictated by God himself, is, of course, superior in obligation to any other. It is binding all over the globe; in all countries, at all times. No human laws have any validity, if contrary to this; and such of them as are valid, derive all their force and all their authority, me distely or immediately from this original."—I Com., 41. Fortescue, the Chancellor of Henry VI, in his de Laudibus Legum Anghia, cap. 42, has the following passage, the consideration of which, in requital for Mr. Webster's advice to me, I respectfully

ommend to him:

"That must necessarily be adjudged a cruel law, which augments slavery, and diminiahs Liberty. For Human Nature implores without ceasing for Liberty. Slavery is introduced by man, and through his vice. But Liberty is the gift of God to man. Wherefore, when torn from a roan, it ever yearns to return; and it is the same with everything when deprived of its natural Liberty. On this account, that man is to be adjudged cruel, who does not favor Liberty. By these considerations the Laws of England, in every case, give favor to Liberty."—Cap. 42.

CONSTITUTIONAL PROVISIONS FOR TRIAL DY

CONSTITUTIONAL PROVISIONS FOR TRIAL BY JURY, WITH HISTORICAL REFERENCES. 1. Where Congress has power to provide for such

11. Where it is the duty of Congress to do so.

criminal prosecutions, there shall be a trial by jury; and that, "in suits at common law the trial by jury shall be preserved." He then adds, "there is no other clause or sentence in the Constitution having the least hearing upon the sea. clause or sentence in the Constitution, having the

clause or sentence in the Constitution, having the least bearing on the subject." This I deny.

Here Mr. Webster virtually declares that, but for the above-named two provisions, the right of the trial by jury would not have been secured to us by the Constitution in any case. Of course, Congress would have been under no obligation, nor would it have had any power, to provide by

law for such trials.

Were I to say that this assertion borders or

Were I to say that this assertion borders on the incredible, one might well ask, which side of the line does it lie?

The provision for a trial by jury, in criminal prosecutions, is in the third clause of the second section of the third article, and is repeated, and of amendment.

But the provision for trial by jury, in suits

common law, is in the seventh article of amend-ment; and neither this provision, nor any sem-blance of it, is to be found, in express words, in any part of the Constitution as it came from the hands of its framers, and was adopted by the

hands of its framers, and was adopted by the States.

According to Mr. Webster, then, Congress were under no obligation, and had no power, to make a law providing for trial by jury, except in criminal prosecutions, until after the seventh article of amendment had been ratified; for if they had any such power, or were under any such obligation, it must be by virtue of some clause or sentence in the Constitution, having a Charging and

to a trial by jury, except in the case of criminal prosecutions; because, until this time, there was no clause or sentence in it, "having the least

Yet, on the 24th of september, 1789, and more than two years previous to the adoption of the seventh amendment, (by which alone, according to Mr. Webster, they had any power to act in the premises,) Congress did pass the judiciary act; by the ninth, twelfth, and thirteenth sections of which it is provided, that the trial of issues in fact, in the District Courts, in the Circuit Courts, and in the Supreme Court, shall, with certain excep-

The act also empowers the Courts to grant new trials "for reasons for which new trials have usually been granted in the courts of law." In what courts of law? Did it not mean the Courts in Westminster Hall, and those in this country formed after that ancestral model? And does this show beyond question or cavil, that the principle of the jury trial, in civil cases, was incorporated into the Constitution of the United States, originally; and that it was universally understood to be so by its framers, and by their contemporaries, the members of the first Congress?

"In controversies respecting property, and in suits be-tween man and man, the accions trial by jury is preferable to any other, and ought to be held mered."

This article being read in the Convention, Judge Marshall enid the trial by jury was as well secured by the United Biates Constitution, as by the

Another remarkable feature of Mr. Butler's bill, is, that it provides no penalty whatever for any one who shall abuse, or fraudulently use the dangerous authority which it gives. It furnishes endless temptations and facilities for committing wrong; it imposes no restraints; it warns by no threats of retribution.

Mr. Webster calls me to account for some unspecified erroneous "opinion," expressed in relation to this bill. Can any opinion be so false to the Constitution, as this bill to humanity? I courts, the interest of rights.—1b, 524. He said this in reference to civil cases.

In the Massachusetts Convention, it was said, without a doubt being expressed from any quarter, that "the word court does not, either by popular or technical construction, exclude the use of a jury to try facts. When people in common language talk of a trial at the Court of Common Pleas, or the Supreme Judicial Court, do they not include all the branches and members of such the Constitution, as this bill to humanity?

a trial by jury. I spoke of him as a Senator, as one who, with his co-legislators, has full right and power under the Constitution, to secure this and Chief Justice McKean, in Pennsylvania; by

In the Virginia Convention, objection made to the Constitution, because it did not ex-pressly secure to the acquised the privilege of chal-lenging or excepting to jurors in criminal cases. But Mr. Pendleton, the President of the Conven-But Mr. Pendleton, the President of the Convention, and for so many years, the highest judicial officer in the State, replied: "When the Constistitution says that the trial shall be by jury, does it not say that every incident will go along with it?"—3 Elliote's Debates, 497.

So when the Constitution provided for "courts,"

and defined their jurisdiction, it clearly contem-plated the trial by jury, in regard to all such rights of the citizen as had been usually, theretofore, tried by a jury. Congress, indeed, might fail to perform its duty; but in such case, no provisions of the Constitution, however express and peremptory, would secure the rights of the

people.

It is perfectly well known to every student of the Constitution, that the only reason why that instrument did not make express provision for the trial by jury, in civil cases, was the difficulty of running the dividing line between the many cases that should be so tried, and the few that or cent. of all civil cases should be tried by jury ; but they could not agree upon the classes of cases from which the remaining one per cent should

In this connection, it is worth while to notice the heading or preamble of the Joint Resolutions for submitting certain proposed amendments of the Constitution to the States, among which was the seventh. It is as follows:

"The Conventions of a number of the States having at the time of their adopting the Constitution expressed a de-sire, in order to prevent misconstruction or abuse of its powers, that further declaratory or restrictive clauses should be added; and as the extending the ground of public confidence in the Government will best insure the beneficent ends of its institution, RESOLVED," &c. ends of its institution, Rusolven," &c.

From this it appears that the first Congress only proposed to submit certain "further declaratory and restrictive clauses," "to prevent misconstruction or abuse of its powers." This heading or title, of course, does not enlarge or limit the meaning of the amendments; but it shows the view of their scope and intendment which their authors held. But what is the seventh amendment but a "declaratory and restrictive clause."

ment but a "declaratory and restrictive clause," securing the trial by jury, in cases at common law, "where the value in controversy shall ex-ceed twenty dollars," and abandoning it where the value is less?

The phraseology of the amendment is full of significance: "The right of trial by jury shall be preserved." Not created, but preserved. Not instituted de novo, but continued. How can a

right be preserved, which does not already exist?

In speaking of the trial by jury, in criminal cases, Judge Story uses the same word. He says it was "preserved." In neither class of cases, civil or criminal, was it ever abandoned or lost, requisite laws.

but which we hold under the Constitution

or sentence in the Constitution, having the least bearing on the subject" of jury trials, Mr. Webster is contradicted by the members of the General Convention, by the State Conventions, by the Senators and Representatives, who passed the Judiciary act, by President Washington who signed it, and by all the judges who administered that act until the seventh amendment was adopted.

11. Where it is the duty of Congress to provide for trial by jury.

But another of Mr. Webster's assertions is still more extraordinary. He says "nothing is more false than that such jury trial [a trial by jury for an alleged slave, or for a freeman claimed as a slave,] is demanded by the Constitution, either in its letter or in its spirit."

I make a preliminary remark upon the amazing untruth embodied in the form of this propo-

ing untruth embodied in the form of this proposition.

"Nathing is more false;" that is, if I, or any one, had affirmed that our Constitution forbids trial by jury, in all cases, under penalty of death; or that it creates a hereditary despotism; or that it establishes the Catholic religion with the accompaniment of an inquisition for each State; or that it does all these things together; it would not be more "false" to the "spirit" of the Constitution, than to say that it demands the trial by jury, when a man who is seized as a slave, but

stitution, than to say that it demands the trial by jury, when a man who is seized as a slave, but who asserts that he is free, invokes its protection. But this pertains to the form only of his assertion. I proceed to inquire whether its substance be not as indefensible as its form.

In another part of Mr. Webster's letter, he says, that he sees "no objection to the provisions of the law" of 1793. Of course, he sees no objection to Mr. Butler's bill, and its amendments; but he prefers them to Mr. Seward's. And he now mays, there is nothing in the letter or in the "spirit" of the Constitution, which demands the jury trial for an alleged slave, or for a freeman captured and about to be carried away as a slave. Feeble and humble as I am, great and formidable as he is, I join issue with him, on this momen-

captured and about to be carried away as a slave. Feeble and humble as I am, great and formidable as he is, I join issue with him, on this momentous question, and put myself upon the country. Our Constitution, as the present generation has always been taught, yearns towards liberty and the rights of man. The trial by jury, in the important cases of limb, life, or liberty, is essential to these rights. The two, therefore, have such close affinity for each other, as to render it highly probable, if not morally certain, that the framers of the former would make provision for the latter; that they would lay hold of it, as by a law of instinct, to carry out their beneficent purposes. The trial by jury was necessary to the vitality of the Constitution; and it would hardly be too strong an expression to say that the Constitution, as it came from the hands of its founders, necessitated the trial by jury.

The object for which the Constitution was framed, as set forth in its preamble,—namely, to "establish justice," "promote the general welfare," and "secure the blessings of liberty," to the people,—could never be accomplished without the trial by jury. The organible is not annealed.